

FILED

July 9 2008

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA
PR 06-0120

STATE OF MONTANA,

Plaintiff,

v.

CHESTER L. SHAFFER,

Defendant.

FILED

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ORDER *Ed Smith*
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Chester L. Shaffer has filed an appeal of Judge Larson's denial of Shaffers's 3-1-805 MCA, motion for disqualification for cause.

Pursuant to 3-1-805 MCA, a motion for disqualification for cause must be in affidavit form; must be certified as made in good faith and shall be deemed not to be in good faith if it is based solely on rulings in the case which can be addressed in an appeal from the final judgment. Any affidavit which is not in proper form and which does not allege facts showing personal bias or prejudice may be set aside as void.

Although Shaffer's motion recites that it is made in good faith, it is not a sworn affidavit. Furthermore, even if it were in affidavit format, the motion is based solely on rulings in the case which can be addressed in an appeal and does not allege facts showing personal bias or prejudice.

IT IS THEREFORE ORDERED THAT:

1. Chester Shaffer's motion to disqualify Judge Larson for cause is set aside as void pursuant to 3-1-805 MCA.

2. The Clerk is directed to mail a true copy of this order to Chester Shaffer at his last known address, the Honorable John Larson and the Clerk of the District Court of Missoula, Montana, in Missoula County, Cause No. DC-07-522.

DATED this 9th day of July, 2008.

Karla M. Gray
Chief Justice

W. William Seyburn

Patricia Cotton

John K.

Justices